

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN JAMES WEBSTER,

Petitioner,

Civil No. 2:18-CV-11941

v.

HONORABLE SEAN F. COX

UNITED STATES DISTRICT JUDGE

CONNIE HORTON,

Respondent,

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
APPLICATION TO PROCEED WITHOUT PREPAYING FEES AND COSTS ON
APPEAL (Doc. 17) TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH
CIRCUIT**

On April 12, 2019, this Court denied the petition for writ of habeas corpus, denied the motions for the appointment of counsel and for an evidentiary hearing, denied a certificate of appealability, and denied petitioner leave to appeal *in forma pauperis*.

Petitioner filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. (Doc. 16). Petitioner also filed an application to proceed without prepayment of fees and costs on appeal with this Court. (Doc. 17). For the reasons stated below, the Court orders that the application be transferred to the United States Court of Appeals for the Sixth Circuit.

A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.” *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(per curiam)); *Workman v. Tate*, 958 F. 2d 164, 167 (6th Cir. 1992). Petitioner’s notice of appeal divests this Court of jurisdiction to consider his motion that he be permitted to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. *See Johnson v. Woods*, No. 5:12-11632; 2013 WL 557271, * 2 (E.D. Mich. Feb. 13, 2013); *Glick*

v. U.S. Civil Service Com'n, 567 F. Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F. Supp. 28, 29-30 (E.D. Pa. 1983). Because jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the notice of appeal, petitioner's application to proceed *in forma pauperis* on appeal would be more appropriately addressed to the Sixth Circuit. In the interests of justice, this Court can order that the application to proceed without prepayment of fees and costs be transferred to the Sixth Circuit for that court's consideration. *See Baker v. Perry*, No. 2:12-10424; 2012 WL 6097323, * 2 (E.D. Mich. Dec. 6, 2012).

IT IS HEREBY ORDERED that the Clerk of the Court transfer the "Application to Proceed Without Prepaying Fees and Costs on Appeal" (Doc. 17) to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

Dated: July 8, 2019

s/Sean F. Cox

Sean F. Cox
U. S. District Judge